

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

Richard P., by and for **R.P.**, and Denise L.,)
by and for **K.L.**,)
)
Plaintiffs)

v.)

SCHOOL DISTRICT OF THE CITY)
OF ERIE, PENNSYLVANIA; JANET)
WOODS, Individually and in her Capacity)
as Principal of Strong Vincent High)
School; and **LINDA L. CAPPABIANCA**,)
Individually and in her Capacity as)
Assistant Principal of Strong Vincent High)
School,)

Defendants)

Civil Action No. 03-390 Erie

JURY TRIAL DEMANDED

MOTION FOR LEAVE TO SUPPLEMENT DEFENDANTS' PRETRIAL STATEMENT

Defendants The School District of the City of Erie, Pennsylvania, Janet M. Woods and Linda L. Cappabianca respectfully submit the following Motion for Leave to Supplement Defendants' Pretrial Statement.

1. On April 13, 2005 the Court issued an order closing discovery on June 30, 2005 and requiring that pretrial statements be filed by August 1, 2005 (plaintiffs) and August 29, 2005 (defendants).

2. Plaintiffs filed their pretrial statement on August 1, 2005 and defendants filed their pretrial statement on August 29, 2005. No expert witness was identified in plaintiffs' pretrial statement nor was an expert report attached to the pretrial statement.

3. On August 4, 2005 plaintiffs' counsel notified defendants' counsel of a delay in completing an expert report of an expert retained by plaintiffs. On August 17, 2005 defendants' attorney consented to Plaintiffs' Motion to Seal the Record and Supplement Their Pretrial Statement and, on September 9, 2005, the motion was filed with the court. On September 12, 2005 the motion was granted, the court allowing plaintiffs to file the reports of their expert under seal.

4. On September 20, 2005 Plaintiffs' Motion to Clarify Order Sealing Records was filed and granted by the Court.

5. On September 8, 2005 defendants' attorney received unsigned copies of reports from plaintiffs' only expert in this case and, on September 16, 2005, signed copies of those reports were received by defendants' attorney. On September 21, 2005 the reports of the expert were filed with the Court under seal.

6. Defendants have concluded after review of the reports of plaintiffs' expert witness that documents not identified as trial exhibits in Defendants' Pretrial Statement should be so identified in light of the assertions made by plaintiffs' expert in his reports. Those documents are:

- a. Records regarding all medical treatment received by K.L., including mental health treatment, from and including February 13, 1997 to the present time.
- b. Records regarding all medical treatment received by R.P., including mental health treatment, from and including May 8, 2001 to the present time.

- c. All records of Sarah Reed Children's Center regarding all services provided by Sarah Reed Children's Center that relate to K.L. and R.P. from and including April 11, 1995 to the present time.

7. Defendants' review of the reports of plaintiffs' expert have led them to conclude that persons not identified as witnesses on Defendants' Pretrial Statement should be so identified in light of the assertions made by plaintiffs' expert in his reports. Those persons are:

MaryAnne Albaugh, M.D.
Erie, PA

Kirsten E. Brunner-Martinez, D.O.
Erie, PA

D. Carlson, M.D.
Erie, PA

Kelly A. Hough
Erie, PA

Jill Houston
Erie, PA

Charles R. Joy, M.D.
Erie, PA

Jennifer L. Vaglia
Erie, PA

Robert E. Wilson, M.D.
Erie, PA

8. Counsel for plaintiffs was provided with a copy of this motion and the proposed order filed with it and indicates that plaintiffs have no objection to the relief requested herein or in the proposed order of Court.

WHEREFORE, defendants The School District of The City of Erie, Pennsylvania, Janet M. Woods and Linda L. Cappabianca respectfully request that the Court issue an order granting

them leave to file a supplemental pretrial statement identifying the documents and persons mentioned above as trial exhibits and witnesses at the trial of this action.

Respectfully submitted,

/s/ James T. Marnen

James T. Marnen

PA I.D. No. 15858

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Attorney for Defendants,

The School District of the City of Erie, Pennsylvania,
Janet M. Woods and Linda L. Cappabianca

634679

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the ____ day of September, 2005, a copy of the within document was served on all counsel of record and unrepresented parties in accordance with the applicable rules of court.

/s/ James T. Marnen

James T. Marnen